IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7464 OF 2006

Sunil Baban Rajgire ..Petitioner

V/S

The President,

Shikshan Mandal Bhagur & Ors. ..Respondents

Mr. N. V. Bandivadekar for Petitioner.

CORAM : A.P. DESHPANDE, J.

DATE : 10TH JANUARY, 2007.

P.C.

1. By this petition, the petitioner questions the legality and validity of the order passed by presiding officer of the School Tribunal, dismissing the Appeal filed by the Petitioner.

2. The petitioner was appointed as Assistant teacher against the post reserved for S.C. category. The petitioner belongs to S.C. category. When the vacancy arose for filling in the post of Head Master the other senior teachers from S.C. category had relinquished their claim as permissible under Rule 3 of MEPS Rules. The present Respondent as well belongs to S.C. category and is

undisputedly senior to the petitioner. The Respondent No. 4 was one of the teacher from S.C. category who was senior to the petitioner and had given up the claim for the post of Head Master. The petitioner's claim was considered and petitioner was appointed as Head Master in the year 1998. It so happened that in the school wherein the petitioner was working as Head Master was transferred to some other society and the employee working in the said school were given option either to work with the old management or to have transferred to the new institution who had taken over the management of the school. The present petitioner chose to work with the earlier management and accepted the posting as assistant teacher as there was no post of Head Master available in any other school for S.C.category. All this transpired in June 1998. The petitioner had given letter to the old management stating therein that the petitioner reserves his right to claim the post of Head Master as and when the vacancy from S.C. category arise. In the year 2003 the post of Head Master was available for the candidate from S.C. category and the management chose to appoint Respondent No. 4 as

he was the senior most teacher from S.C. category. The petitioner aggrieved by the promotion granted to the Respondent No. 4, filed Appeal before the Tribunal and contended that the petitioner had reserved his right of being appointed as Head Master as and when the vacancy would be available for S.C. category. The School Tribunal has rejected the said claim by holding that the petitioner had opted and agreed to work as Assistant teacher.

3. What is relevant to note is that under exception to Sub Rule 3 of Rule 3 even if the senior teacher relinquishes the claim to the promotional post at the given point of time the said relinquishment does not debar him from consideration as and when the subsequent vacancy arises. Though the respondent No. 4 had relinquished his claim earlier when the Headmaster's post was filled in the year 1998 the Respondent No. 4 had urged to consider his claim when the vacancy was available in the year 2003. As Respondent No. 4 was senior to the petitioner, Management has rightly appointed him.

4. Perused the order. It does not suffer from any

illegality or impropriety. The order is in conformity with the provisions of rule 3. There

being no merit in the writ petition the same is summarily dismissed.

(A.P. DESHPANDE, J.)